

**ARIZONA JUDICIAL COUNCIL'S
LIMITED JURISDICTION COURTS COMMITTEE**

**Arizona State Courts Building
Conference Room 345A & B
Phoenix, AZ 85007**

December 4, 2002

Members Attending:

Honorable John Kennedy, Vice Chair
Honorable George Anagnost
Ms. Kathy Barrett
Ms. Faye Coakley
Honorable Judy Ferguson
Honorable Linda Hale
Ms. Joan Harphant
Mr. Theodore Jarvi

Ms. Pam Jones
Honorable John Lamb
Honorable Michael Lester
Mr. Frank Maiocco, Jr.
Honorable G.M. Osterfeld
Mr. Dale Poage
Honorable Antonio Riojas, Jr.
Mr. Paul Thomas

Absent Members (all excused):

Honorable R. Michael Traynor
Honorable Sherry Geisler

Honorable Ronald O. McDaniel
Honorable Mary Scott

Guests:

Ms. Patricia Alvarez-Hurley
Mr. Jeff Fine
Mr. Tom McClory

Mr. Dennis Metrick
Ms. Cathy Nemecek
Mr. Rick Rager

Staff:

Mr. Tom Adams
Ms. Kate Bibber
Ms. Ellen Crowley
Mr. George Diaz, Jr.
Mr. Greg Eades
Ms. Jennifer Greene
Ms. Patience Huntwork

Ms. Lori Johnson
Ms. Pam Pucetas
Mr. David Sands
Ms. Janet Scheiderer
Ms. Laura Snyder
Ms. Nancy Swetnam
Ms. Amy Wood

REGULAR BUSINESS

1. Call to Order

Judge John Kennedy called the meeting to order at 10:06 a.m.

Judge Kennedy announced that Judge Traynor is on medical leave and that he (Judge Kennedy) will be presiding over this meeting in Judge Traynor's absence. Judge Kennedy noted several visitors at the meeting and asked everyone to introduce themselves, by name and court.

2. Approval of Minutes from the September 25, 2002 Meeting and October 29, 2002 Telephonic Meeting

Judge Kennedy asked if there were any changes or corrections to the September and October meeting minutes. No corrections were made.

MOTION: Motion was made and seconded to approve the minutes from the September 25 and October 29, 2002 meetings as corrected. Motion passed unanimously. LJC-02-24

INFORMATION/POTENTIAL ACTION ITEMS

3. Pending and Proposed Rules Updates

Patience Huntwork announced that because of budget cuts the clerks office will discontinue distribution of a large number of final rule hard copies to various offices, agencies and courts. The State Bar and AJC will continue to get final copies and requests for comment copies will not be eliminated.

Judge Anagnost asked how the courts and LJC get notice. Ms. Huntwork responded the Rule amendments can be viewed on the Supreme Court website however they are difficult for some to find. She mentioned that she has made suggestions to make it easier to find them on the front page of the website, with no luck. Ms. Huntwork instructed Committee members to go to the Legal Reference link on the front web page and from there they can find the rule changes which usually appear within a week or two of action. Ms. Huntwork explained how e-mailing the final rules or putting them on a list serve would not be feasible.

Janet Scheiderer volunteered that Court Services Division staff could coordinate with Ms. Huntwork to get the information out to LJC. Judge Anagnost suggested the Wendell website as a possible domain for final rules. Kathy Barrett further supplied that as court staff also research the rules we shouldn't limit it to just Wendell.

Janet Scheiderer was asked to pass along a suggestion to the AOC website administrator to consider rewording the Legal Reference link to more descriptive terms to enable users to know from the website front page that is where they need to go to find the rules. Ms. Huntwork also briefed the Committee on the following Rule actions:

- A. The petition regarding a substantial overhaul (modernization) of criminal discovery has been stayed. It will go back on the January agenda.
- B. The court rejected the early juror discussion rule.
- C. The Rule 10.2 (change of judge) experimental periods were for one year each. Statistics gathered by the AOC during that time showed a substantial reduction in change of judge, but the court is not convinced so the experimental rule will continue statewide for one year. Information will be gathered in Maricopa County limited jurisdiction courts.

- D. A petition has been submitted by the Attorney General's Office regarding the posting of victims rights. It is presently out for comments.
- E. There was an emergency adoption of the Initial Appearance Master Rule. A comment period (which was in November) followed.
- F. A petition regarding the unauthorized practice of law will be on the next agenda.

4. Legislative Update

Mr. George Diaz Jr. reviewed the following 2003 AJC proposals:

- A. A bill to protect judge's personal information which extends to Municipal Judges and Justices of the Peace. Mr. Diaz noted this bill would only apply to counties with populations of 500,000 or more.
- B. A bill which would require parental responsibility for juvenile costs such as shelter care or treatment.
- C. A bill regarding a Deferred Retirement Option Plan which may get support from the AOC and elected officials, but associated costs may be problematic.
- D. A proposal from Yuma County which clarifies the timing for payment of the \$25.00 administrative assessment charged to offset the costs for public defender services.

Mr. David Sands discussed:

- E. A proposal to generate additional conciliation services revenue by adding maternity and paternity cases to those which require a \$65.00 filing fee in Superior Court.
- F. A bill which permits courts to charge up to \$40.00 for attendance in a Domestic Relations Education on Children's Issues Program. Completion of this program is required of parents (with minor children) involved in divorce, separation, paternity or annulment. Its purpose is to urge parents not to use children in their court action.
- G. A proposal which repeals a 2002 legislative amendment that reduced the age from 21 to 18 at which a confidential intermediary may contact an adoptee at the request of a birth parent or sibling. The previous amendment created inconsistencies and altered public policy regarding the age at which adopted persons may be involved in the reunification process.
- H. A bill regarding the administration of water adjudication filing fees which applies in Maricopa and Apache counties. The bill clarifies the water rights case fees are

administered by the clerk of the superior court in the county where the adjudication is maintained.

Mr. Sands concluded the 2003 AJC Legislative package by speaking briefly about present State budget issues at the legislature.

5. Limited Jurisdiction Code Standardization

Mr. Gordon Mullenau presented a brief history and overview of the Code Standardization program as it occurred in the Superior Courts and stated a similar project committee is now getting started for the limited jurisdiction courts. The problem they are tackling is that there are a large number of AZTEC event codes being used in the courts for the same processes. There is a great deal of variability in the use of the codes across courts.

This committee hopes to streamline the codes by determining those not necessary which may be eliminated later and by standardizing application of the most commonly used codes. The committee plans to set up a website and to send out updates (internally) to the courts as the project progresses.

Amy Woods mentioned that a second committee, the limited jurisdiction user group will also be reconvened and meetings will be held via teleconference. An e-mail notification will be sent out soon, the recommendation is to have three representatives from each county to participate. The recommendation would be one municipal representative, one justice court and a county field trainer. The limit of three individuals per county will yield a group of 45.

6. Certified Document Preparers

Ms. Nancy Swetnam briefed the Committee on the history of the Unauthorized Practice of Law (UPL) Project. The State Bar filed a rule petition on UPL earlier this year. Chief Justice Jones then appointed an Ad Hoc committee to explore areas of concern.

The committee reached consensus regarding “legal document preparers,” and accordingly the State Bar filed an amendment to the original rule petition to create an additional exception to Supreme Court Rule 31 specifying that services performed by a document preparer does not constitute a violation of unauthorized practice of law.

The committee also developed a new Administrative Code Section to establish a certification program for legal document preparers. The certification program was modeled after existing certification programs. Both the rule and the code section are going to the AJC next week and then to the Court's Rule Agenda in January. The rule and code section have gone out for public comment. If adopted, they will be effective July 1, 2003.

7. Rules Subcommittee Update

Judge Anagnost gave the following Rules update:

- A. A motion to withdraw the Rule 17.2 petition was filed yesterday. The petitioner is likely to revise the petition and resubmit it in May in order to get on the September (2003) Rules agenda. As the LJC Committee members expressed interest in reviewing the petition before it is filed, it was suggested AOC staff contact Ms. Eleanor Eisenberg to ask if a preview copy could be made available to the Committee. Ms. Lori Johnson agreed to contact Ms. Eisenberg.
- B. A Rule 7.2 (regarding conditions of release after conviction) petition was filed and is now in consideration of the court.
- C. The Rules for Civil Traffic Appeals will soon be posted on the internet along with suggested forms and procedures.
- D. The Criminal Appeal Rules are currently in process. Two comments have been received by the clerk's office and these Rules should be on the January calendar.

8. Executive Committee Update

Judge Lester stated the CCB discussion (item #13, which was actually discussed prior to this report) held at this meeting mirrored the Executive Committee meeting and he had nothing further to add.

9. Defensive Driving Subcommittee

Ms. Kathy Barrett had nothing new to report at this time.

10. Strategic Planning Subcommittee

Mr. Paul Thomas distributed a Strategic Planning activity chart and asked the Committee to review it to determine current validity, and to consider eliminating, revising or continuing the specific goals outlined. Mr. Thomas suggested this as a first step before developing a new and updated strategic plan as the LJC considers strategic planning in the future

11. Limited Jurisdiction Courts Round Table Sessions

Mr. Jeff Fine, Court Administrator of the Goodyear Municipal Court, provided an overview of the 2002 Limited Court Judicial Conference. Mr. Fine reported that over 120 limited jurisdiction judicial officers and court administrators attended the conference that took place on June 13th in Goodyear, Arizona.

Mr. Fine also reported that a pre-conference "Round Table Session on Limited Court Issues" was attended by 35 conference attendees. This session was facilitated by a private consultant and the objective was to identify and prioritize the issues that currently face Arizona courts.

The top four issues identified during the first session were: automation, AOC, resources and inter-agency cooperation. During phase two the group met again (along with AOC staff) and talked about their issues, goals and objectives on each of the four priorities.

Mr. Fine concluded the project is unique in that it is the first time in his career that he has seen such a large and diverse group of judicial officers and administrators work together to identify and prioritize the issues that most affect Arizona courts today. Reports from the sessions were distributed to the Committee.

12. Domestic Violence Forms

Judge Anagnost presented the following information for Mr. Robert James, who could not be present. A forms group, a subcommittee of CIDVC will be meeting biweekly to develop domestic violence forms which will fit the AZTEC DV forms module that more closely and will work with the NCIC system. Once the DV forms are drafted they will present them to the Information Technology Division of the AOC.

13. Centralized Citation Processing Bureau

Mr. Michael Baumstark provided a brief history of the Centralized Citation Bureau (CCB) project and listed the project objectives as follows:

- A. To reduce workload in the courts.
- B. To enhance compliance with court orders and to improve court collections.
- C. To improve the quality of the data going into AZTEC.

Mr. Chris Crawford, a consultant with Justice Served joined the discussion via teleconference. Mr. Crawford supplied the Committee with a handout summarizing his initial findings from a sampling of Arizona courts and the resulting recommendations for a future RFP process. The Committee discussed the results with Mr. Crawford.

Mr. Crawford described the three components of the CCB concept as:

- 1. Front end data processing such as entering new citations into the system.
- 2. Middle processes.
- 3. End processes, such as collections.

Additionally, Mr. Crawford addressed the methodology employed in arriving at the conclusions stated in the summary document. Mr. Crawford discussed collection techniques, data exchanges, privatization, a centralized website and a centralized IVR used in other states. Mr. Crawford emphasized the importance of early address verification and early compliance with court orders. Mr. Crawford stated that structuring

the RFP properly is critical to accomplishing the project goals through the selected vendor.

Judge Anagnost asked what LJC could do to help. Mr. Baumstark replied that he wanted to let the members know that the AOC has heard them and the goal is to proceed without causing problems for the courts. Mr. Baumstark explained there are two options. Option one would be total outsourcing and this is not wholly supported. In option two, courts would continue to do the front end processing and collections would be centralized.

Mr. Baumstark mentioned the AOC is looking at possibly providing an incentive for courts to enter citations timely and efficiently, similar to those that would be paid to a vendor if the operation was outsourced.

Ms. Faye Coakley asked why rural courts weren't contacted during the site visits by the consultants? Mr. Crawford responded it was a cost savings issue. Additionally, Mr. Crawford detailed his experience in various court levels in California and stated his belief that rural concerns were adequately represented.

Judge Riojas stated he supports further pursuit of option two but he has additional questions which the AOC may not be able to answer until after the RFP process has progressed.

Mr. Baumstark offered that several courts have asked what will happen to their current fines enforcement programs. Mr. Baumstark assured the Committee the intention is not to substitute, but to complement what some courts already have in the way of collection programs.

Judge Kennedy asked Mr. Baumstark if the AOC is recommending that courts could opt in to the collection process. Mr. Baumstark was not sure a recommendation has been formed on that yet. Mr. Baumstark explained this issue is going to the Arizona Judicial Counsel (AJC) next week for a decision. Discussion ensued as to whether or not the decision of courts opting into the collection program should be decided by the AJC, which is not heavily representative of limited jurisdiction courts.

Judge Lester stated there are still many questions which require refinement before this Committee can lend support. He agreed the AJC should not decide on this yet, not until the level of comfort is there. Judge Anagnost asked about the possibility of configuring AZTEC to generate payment demand letters as an alternative.

Mr. Baumstark proposed that since Mr. Crawford is drafting a shell RFP, this Committee form a delegation to help draft the language that will satisfy the courts. Mr. Baumstark stated the AOC would be recommending option two to the AJC to get their approval to go forward on this project. Judge Lester suggested the AOC make a recommendation to the AJC on this issue, on behalf of the LJC.

Mr. Baumstark asked the Committee to support the AOC in pursuing an RFP for this project. A point of order was raised by the Committee as to whether or not the Committee could alter an agenda item from “information only” to an “action item.” Mr. Greg Eades, AOC legal counsel, stated it would be proper for the Committee to take a vote as the topic was included on the agenda.

Mr. Paul Thomas stated that he doesn't feel the Committee can vote in favor of approving the RFP until reviewing the specific language.

The Committee discussed alternative motions.

MOTION: Motion was made and seconded **to give Judge Traynor authority to appoint a committee to work with the AOC in drafting the language for the RFP for option two. Motion passed unanimously. LJC-02-25**

14. Public Access to Electronic Court Records

The issue is ARS §13-2813 and whether limited jurisdiction courts should be withholding information on criminal charges in the absence of proof of service on the defendant. Ms. Jennifer Greene started out by reading ARS 13-2813 and stated their (the AOC's) last interpretation caused a lot of controversy, so Mr. Greg Eades contacted Tom McClory of the State Attorney General's office.

Mr. McClory reviewed the legislative history of the revisions to ARS 13-2813. He mentioned the 1978 revision deleted the reference to felony only (as to what could not be disclosed). He noted that disclosure of misdemeanor and criminal traffic matters have been made readily for the past 25 years and no concerns have been raised before now. He stated a first choice could be to interpret this statute not to govern misdemeanors. A second choice would be to go to the legislature and get the statute corrected. A third choice would be to authorize the disclosure through an administrative order of the court.

Ms. Kathy Barrett asked if the statute would apply to photo enforcement complaints. It was agreed the statute probably applies to criminal conduct only and would not apply to civil traffic offenses.

Mr. Baumstark raised the issue of public access to court records and suggested the AOC could provide guidance in this area possibly through a modification of Supreme Court Rule 123. Mr. Greg Eades was asked to follow up on a possible rule change.

OTHER BUSINESS

15. Ms. Janet Scheiderer addressed the Committee on three topics:

- A. The AOC received a citizen complaint regarding a red light violation. This citizen paid his fine through the mail according to the instructions on the courts bond envelope.

The citizen was later notified (by MVD) that he was required to attend traffic survival school as per ARS 28-645 or 28-647. This citizen claimed he was not informed of this mandatory requirement and contended if he had known he would have to attend traffic survival school, he would have opted to attend defensive driving school rather than paying the fine. A memo (distributed) from the Motor Vehicle Department was posted to the AOC website which suggests an advisory be added (regarding red light convictions) to courts bond cards.

Ms. Scheiderer reminded the Committee that drivers under age 18 are subject to the graduated license law which also requires traffic survival school for civil traffic violations. Judge Kennedy asked Ms. Scheiderer and Ms. Nancy Swetnam to address the Committee at the February meeting regarding suggestions for court's bond envelopes.

- B. Judge Ellie Finn is now on the AZTEC system in the Glendale Municipal Court. Judge Finn has brought some issues to the AOC's attention and has made some suggestions for auto-populating certain fields when information is not available.
- C. The AZTEC 1.0 rollout (in 40 courts now) is going smoothly. There are significant processes behind the rollout including training and database administration. Some issues to which fixes apply should be patched in February or March. Judge Kennedy requested Ms. Scheiderer e-mail this information to court staff.

16. Call to the Public

Judge Kennedy called to the public.

17. Adjournment

MOTION: Motion was made and seconded to **adjourn the meeting. Motion was passed. LJC 02-26.**

Meeting was adjourned at 3:14p.m.

Respectfully submitted,

Ms. Lori Johnson
Staff to the Limited Jurisdiction Courts Committee